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SUBJECT: CAMBODIA'S SUMMER OF DEFAMATION SUITS WINDS DOWN

REF: A) PHNOM PENH 742
B) PHNOM PENH 716
C) PHNOM PENH 654
D) PHNOM PENH 549
E) PHNOM PENH 469
F) PHNOM PENH 387

SENSITIVE BUT UNCLASSIFIED

11. (SBU) SUMMARY: The summer of defamation lawsuits appears to be winding to a close in Cambodia. The Royal Government of Cambodia (RGC) prevailed in most cases, though defamation actions were either dismissed or never initiated in two high-profile cases. While some appeals and smaller lawsuits are still on-going, the bulk of the cases have been decided and there have been no new filings for several weeks. Attention is now shifting to the National Assembly's debate over the draft Penal Code, and what shape defamation and related statutes will take in the new law. We anticipate that the new Penal Code will retain the basic elements of the existing UNTAC code, especially since government officials have found its defamation provisions so useful in application. END SUMMARY.

RGC Officials Win Lion's Share of Victories

12. (SBU) The Prime Minister secured two legal victories in his battle with Sam Rainsy Party (SRP) Parliamentarian Mu Sochua: the dismissal of Mu's original complaint on June 10 (ref F), followed by Mu's August 4 conviction in the PM's countersuit against her (ref D). Mu has appealed both decisions, and recently appeared before the Appeals Court for questioning related to her appeal of the dismissal of her suit against the PM (ref A). Separately, following the public admission of wrong-doing by Mu Sochua's lawyer, Kang Sam Onn -- which included a written apology to the PM, his resignation as Mu's lawyer, and an offer to join the Cambodian People's Party -- the Phnom Penh Municipal Court dismissed the charges against him at the same time it convicted Mu Sochua. The Bar Association thereafter suspended its investigation of the ethics complaint without reaching a decision.

13. (SBU) Deputy Prime Minister (DPM) Sok An was successful in his lawsuit against Hang Chakra (ref E). Following the June 26 conviction in absentia of Hang Chakra, police apprehended Hang in Battambang Province and imprisoned him. On August 11, the Appeals Court upheld the lower court verdict; Hang appealed to the Supreme Court, but it has not yet scheduled a hearing. On September 10, Hang sent a letter of apology to the DPM, including an appeal for early release due to his declining medical condition, which has been reported in the media and by Hang's family members. Hang told NGO representatives that he wrote the letter freely, received no compensation for doing so, and asked Minister of Information Khieu Kanharith to deliver it to the DPM. There has been no response.

14. (SBU) On June 2, DPM Sok An sued Moeung Sonn, President of the Khmer Civilization Foundation (KCF), for disinformation. The charges stemmed from an interview with Radio Free Asia (RFA) on May 26 in which he accused the government of drilling holes into the

walls of the Angkor Wat temple complex to install lights, and that heat generated from the lights would seriously damage the landmark tourist attraction. Moeung Sonn subsequently denied that he said these things, and also said he was only repeating stories that RFA had previously broadcast. Moeung attempted to clarify his position in several interviews, and later left for France. On July 14, the Phnom Penh Municipal Court convicted Moeung Sonn in absentia for disinformation, sentencing him to two years in prison, a fine of seven million Riel (\$1,750 USD), and additional compensation of eight million Riel (\$2,000 USD) to the DPM. Moeung's lawyer appealed the conviction and indicated his intent to request a re-trial by the lower court, as permitted under the criminal procedure code. Moeung Sonn remains in France.

15. (SBU) On July 7, Dam Sith, editor in chief of the pro-opposition newspaper Moneaksekar Khmer (Khmer Conscience) received a summons to appear for questioning on charges of defamation, disinformation, and incitement. The charges reportedly related to the content of several articles published between February and May, but the government refused to provide specifics about the charges. Despite this lack of information, Dam Sith, who served time in pre-trial detention in June 2008 on similar charges, apologized in writing to Prime Minister Hun Sen and promised to cease publication of the Moneaksekar Khmer newspaper. The lawsuit was dismissed; the newspaper immediately ceased publication and has not resumed.

16. (SBU) Over a four-day period in June, Phnom Penh municipal authorities arrested, prosecuted, and convicted Soung Sophorn, a resident of the Boeung Kak Lake community, on charges of defaming the government. The 22-year-old man, who was a member of the SRP's youth wing, had spray painted messages in Khmer and English on the side of his house protesting the impending eviction of communities

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around the lake to make way for a development project. The court ordered Soung Sophorn to pay a five million Riel (\$1,250 USD) fine.

Lights in the Dark

17. (SBU) There were some victories for free expression during the summer. Ho Vann's acquittal on defamation charges on September 9 (ref B) was one such case -- he had always maintained he was misquoted by the press and never intended to defame anyone. The charges of defamation against Ho's co-defendants, the reporter and the editor-in-chief of The Cambodia Daily, were also dismissed at the same time, although the court found the journalists liable for a civil infraction under the press law. Ho Vann's parliamentary immunity has not yet been restored, though several sources, including CPP lawmakers, have indicated it will not be a problem to do so.

18. (SBU) In another welcome development, Prime Minister Hun Sen intervened to stop efforts by other government officials to sue Chea Mony for defamation. Chea, the brother of celebrated trade union leader Chea Vichea who was murdered in 2004, openly criticized the government in August for not finding his brother's killers, and stated his belief that government forces were behind his brother's death. Minister of Information Khieu Kanharith started legal proceedings against Chea on August 18, saying Chea's unsubstantiated claims left him no choice. But the Prime Minister stepped in to halt the legal action, saying that Chea's comments were deeply emotional words spoken by a grieving man. On August 30, the Minister of Information confirmed that the lawsuit had been dropped. Local and international NGOs welcomed the decision, with one saying it proved the government "was capable of acting with maturity."

Some Disputes Continue

19. (SBU) A private lawsuit filed in Takeo Province by a Muslim imam against several men continues. RFA reporter Sok Serey and two human rights activists from the Cambodian Center for Human Rights (CCHR), Cheap Chiev and Khoeum Sarum, broadcast information regarding a

leadership dispute within a Cham Muslim community between imam Riem Math and another leader, Ny San. Following a September 30 questioning session, the court charged Ny San with disinformation and ordered his arrest, which sparked a riot outside the courthouse as Ny San's supporters blocked police from entering the courthouse to arrest him. The incident ended two hours later without injuries. The court then summoned the journalist and human rights activists for questioning on October 1, and the case is ongoing.

¶10. (SBU) A number of land-related defamation suits also continue (ref C). There have been no new developments, and the cases involving NGO workers in Banteay Meanchey and Ratanakkiri Provinces remain under investigation.

COMMENT

¶11. (SBU) There have been no new defamation lawsuits filed for several weeks, and attention is now shifting to the National Assembly's debate on the draft Penal Code and how defamation and related offenses will be treated in it (septel). Opposition parliamentarians and several NGOs have voiced concerns over the defamation provisions in the draft law. Although an official English version is not yet available, we anticipate that the new law will not likely deviate much from the old UNTAC provisions that the RGC has found so useful. But for now at least, it appears that government officials are content to have demonstrated their views through a spate of copycat summer lawsuits.
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